

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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May 19 '94
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
)	
Computer III Remand Proceedings:)	CC Docket No. 90-623
Bell Operating Company Safeguards;)	
and Tier 1 Local Exchange Company)	
Safeguards)	
)	
Application of Open Network)	
Architecture and Nondiscrimination)	CC Docket No. 92-256
Safeguards to GTE Corporation)	

REPLY COMMENTS OF BELL ATLANTIC¹

The comments confirm that competition, not privacy, provides the motivation for parties to seek more onerous customer proprietary network information ("CPNI") requirements. Those parties are using Commission processes in a continued attempt to prevent local exchange carriers ("LECs") from competing with them effectively. Despite the heightened rhetoric, the record provides no evidence that the existing CPNI rules are inadequate. Accordingly, there is no justification for the Commission to impose more burdensome CPNI regulations.

The parties that urge the Commission to adopt more stringent CPNI regulations repeat the mantra of privacy, but their arguments rest entirely upon the same, tired competitive

¹ The Bell Atlantic Telephone Companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

rhetoric that the Commission faces each time it re-examines CPNI.² Rather than relying on the marketplace, the LECs' competitors continue to try to expand the CPNI restrictions in a manner that will undermine the Commission's oft-repeated policy determinations that the public interest is best served by allowing the LECs to integrate their network service, enhanced service, and customer premises equipment ("CPE") activities.³ The Commission should not allow its processes to be so abused.⁴

² See, e.g., Comments of Cox Enterprises, Inc. at 3-4 ("This preferential access to CPNI gives BOC-affiliated ESPs an artificial competitive advantage"); Comments of the Information Industry Association at 3 ("The competitive threats arising from the existing CPNI rules take two forms"); Comments of the Newspaper Association of America at 1-2 ("NAA has consistently opposed this double-standard, noting that it gives the local companies a significant competitive advantage in marketing unregulated services") (emphasis added).

³ See **Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Phase I Report and Order**, 104 F.C.C.2d 958 at ¶¶ 264-65 (1986), **Phase II Report and Order**, 2 FCC Rcd 3072 at ¶¶ 15-56 and 164-65 (1987), **Phase II Memorandum Opinion and Order on Reconsideration**, 3 FCC Rcd 1150 at ¶¶ 96-99 (1988), **Phase I and II Memorandum Opinion and Order on Further Reconsideration and Second Further Reconsideration**, 4 FCC Rcd 5927 at ¶ 27 (1989); **Filing and Review of Open Network Architecture Plans**, 4 FCC Rcd 1 at ¶ 402 (1988); **Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, Report and Order**, 2 FCC Rcd 143 at ¶ 70 (1987), **Memorandum Opinion and Order on Reconsideration**, 3 FCC Rcd 22 at ¶¶ 20-22 (1987); **Computer III Remand Proceedings: Bell Operating Company Safeguards; and Tier I Local Exchange Company Safeguards**, 6 FCC Rcd 7571 (1991).

⁴ Some parties want to expand the CPNI rules to throw roadblocks into the LECs's ability to market exchange services along with the particular service with which they compete, such as pay telephones, Centrex service, video dial tone, and toll service. See Comments of the American Public Communications Council at 6-10, Comments of Centex Telemanagement, Inc. on Customer Proprietary Network Information ("Centex") at 11-13, Comments of the National Cable Television Association at 2-8, (continued...)

In fact, these proponents of expanded CPNI restrictions provide not one scintilla of evidence that the current CPNI rules are inadequate.⁵ They merely trot out the familiar platitudes that the Commission has seen repeatedly for the past eight years.

The only new evidence of record is a compelling showing that the existing rules are inconsistent with a competitive marketplace, that they cause confusion and anger, and that they are inconsistent with customer expectations.⁶ The recent Louis Harris/Alan Westin study, for example, shows that customers expect that an integrated company will use customer information to market its entire range of products.⁷ In addition, Bell

⁴ (...continued)
Comments of the Telecommunications Resellers Association at 5-6. The Commission should reject such provincial and unjustified attempts to thwart LEC competition.

⁵ The closest any party comes is an entirely unsupported claim by Centex Telemanagement, Inc. that two unnamed LECs have used information about Centrex customers to target Centrex's management clients. Centex at 9-10. Such vague allegations hardly provide the probative evidence needed to support a CPNI rule change. By contrast, Rochester points out that it has never been subject to the Commission's CPNI rules yet has received no complaints about its use of CPNI. Comments of Rochester Telephone Corporation at 3.

⁶ **See, e.g.,** Comments of Ameritech at 2-8, NYNEX's Comments on Rules Governing Telephone Companies' Use of CPNI at 5-10, Comments of Bell Atlantic at 2-5, Supplemental Comments of Bell Atlantic.

⁷ **See** Comments of Bell Atlantic at 3, Supplemental Comments of Bell Atlantic at Att. 1. The Texas Public Utility Commission cites an earlier Harris/Westin survey to show that people are concerned about privacy. Comments of the Public Utility Commission of Texas at 10-11. There is no reason to doubt that the public has significant privacy concerns, but the current study by the same organization shows that consumers do not believe that use by a single enterprise of information to market a variety of products constitutes a privacy issue.

Atlantic has been deluged with customer complaints about what they view as a CPNI-related "run-around" when they seek information from Bell Atlantic business offices or account executives about enhanced services.⁸

Based on this record, the Commission has no evidence upon which to impose more onerous CPNI conditions. Instead, the record justifies easing the existing restrictions to meet customer expectations and avoid future confusion.

Respectfully submitted,

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⁸ **See** Supplemental Comments of Bell Atlantic at Att. 2.

ATTACHMENT D

Evolution of the Data Communications Market

In 1983, network interfaces were still almost exclusively defined by AT&T and the dominant (almost only) form of wide-area data communications was remote terminal connected to a host computer using dial-up facilities or private lines offered by the BOCs and AT&T. Today, centralized data processing dominated by networking protocols has been replaced by local areas network ("LAN")-based distributed processing networks. This is where the market is now - a mixture of LANs interconnected through a mixture of LAN backbones that are themselves interconnected through a mixture of wide area networks ("WANs"), requiring protocol conversion at each network interconnection point. The future of data communications is a common transport protocol - Asynchronous Transfer Mode ("ATM") - which will first be deployed as a WAN backbone and then, over time, work its way back to the desk-top. In addition, network interfaces are no longer proprietary to vendors but are standards-based, which means that the entire industry has a role in developing those protocols.¹

Equally important, users expect to use their multi-protocol routers to access a variety of backbone "fast-packet" networks such as Frame Relay, Fiber Distributed Data Interface

¹ For example, standards-based transport protocols have been defined for wide area networking in order to interconnect local and wide-area networks.

("FDDI"), Switched Multi-megabit Data Service ("SMDS"), and ATM. A recent study by the Yankee Group surveyed over 100 large U.S. organizations and found that in 1993 an average of 35% of each organization's network sites were connected via routers (using 56 kbps and T1) while 45% were connected via System Network Architecture ("SNA") multidrop lines.² The comparable figures were predicted to be 50% and 30% in 1995, and 65% and 15% in 1998.³ This does not necessarily indicate precipitous abandonment of SNA multi-drop networks but rather a phased transition to LAN backbones for mainframe hierarchical networks. Similarly, a 1993 Datapro survey found that 52% of respondents used both LAN/WAN internetworks and hierarchical mainframe networks and that 73% of the respondents indicated plans to convert their mainframe networks to router-based networks (which require protocol conversion for efficient operation).⁴

The Yankee Group survey also showed that in 1993 the respondents' use of WAN services such as Frame Relay, SMDS and ATM was only 4%, 1% and 0%. These numbers were expected to grow markedly in subsequent years, to 20%, 8% and 12%, respectively, in 1995, and 30%, 12% and 35% in 1998.⁵

² The Yankee Group 100 Opinion Taker on ATM in the Wide Area Network at 5 (1993) ("Yankee Group").

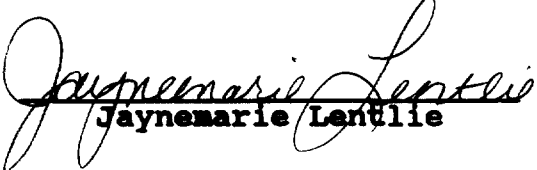
³ *Id.*

⁴ "User Ratings of Bridges and Routers," Datapro, Managing

As shown in the text, these are changes that justify changing the current definition of protocol conversion as an enhanced service. The data services currently being offered and introduced are transitional techniques. Ultimately, when standards-based ATM technology is uniformly deployed, wide-spread use of network-based protocol conversion will be unnecessary. Until then, however, the Commission should facilitate the deployment of the transitional services by allowing protocol conversion to be offered as part of the basic services.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 7th day of April, 1995 by first class mail, postage prepaid, on the parties on the attached list.


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